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COUNCIL DIRECTIVE
of 22 November 1973
on the approximation of the laws of the Member States relating to detergents
(73/404/EEC)

(OJ No L 347, 17. 12. 1973, p. 51.)

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C1 Corrigendum, OJ No L 195, 18. 7. 1974, p. 35 (73/404/EEC)

COUNCIL DIRECTIVE
of 22 November 1973
on the approximation of the laws of the Member States relating to detergents
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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100 thereof; (SIC! thereof,)

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament ⁽¹⁾; (SIC! ⁽¹⁾ Parliament,)

Having regard to the Opinion of the Economic and Social Committee ⁽²⁾; (SIC! ⁽²⁾ Committee,)

Whereas the laws in force in the Member States for ensuring the biodegradability of surfactants differ from one Member State to another, which results in a hindrance to trade;

Whereas the increasing use of detergents is one of the causes of pollution of the natural environment in general and the pollution of waters in particular;

Whereas one of the pollutant effects of detergents on waters, namely the formation of foam in large quantities restricts contact between water and air, renders oxygenation difficult, causes inconvenience to navigation, impairs the photosynthesis necessary to the life of aquatic flora, exercises an unfavourable influence on the various stages of processes for the purification of waste waters, causes damage to waste water purification plants and constitutes an indirect microbiological risk due to the possible transference (SIC! transference) of bacteria and viruses;

Whereas it is desirable to maintain an average level of biodegradability of detergents of 90% and whereas technology and industrial practicalities make this possible, and whereas it is desirable nevertheless to safeguard against uncertainties of test methods which could lead to rejection decisions having important economic consequences,

HAS ADOPTED THIS DIRECTIVE:

⁽¹⁾ OJ No C 10, 5. 2. 1972, p. 29.

⁽²⁾ OJ No C 89, 23. 8. 1972, p. 13.

Article 1

For the purposes of this Directive, detergent shall mean any product the composition of which has been specially studied with a view to developing its detergent properties, and which is made up of essential constituents (surfactants) and, in general, additional constituents (adjuvants, intensifying agents, fillers additives and other auxiliary constituents).

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C1, OJ No L 195, 18. 7. 1974, p. 35

Article 2

Member States shall prohibit the placing on the market and use of detergents where the average level of biodegradability of the surfactants contained therein is less than 90% for each of the following categories: anionic, cationic, non-ionic and ampholytic.

The use of surfactants with an average level of biodegradability of not less than 90% must not, under normal conditions of use, be harmful to human or animal health.

Article 2a

1. Until 31 December 1989, Member States may, exempt the following products from the requirements of the first paragraph of Article 2:

- (a) low-foaming alkene oxide additives on such substances as alcohols, alkylphenols, glycols, polyols, fatty acids, amides or amines, used in dish-washing products;
- (b) alkali-resistant terminally blocked alkyl and alkylaryl polyglycol ethers and substances of the type referred to in subparagraph (a), used in cleaning agents for the food, beverage and metal-working industries.

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2. Paragraph 1 shall apply to the abovementioned non-ionic surfactants which come on the market after 30 September 1983 only if they have a higher level of biodegradability than existing products for the same application.

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3. The use of the non-ionic surfactants benefiting from a temporary derogation mentioned in paragraphs 1 and 2 must not, under normal conditions of use, be harmful to human or animal health.

Article 3

No Member State may, on grounds of the biodegradability or toxicity of surfactants, prohibit or restrict or hinder the placing on the market and use of detergents which comply with the provisions of this Directive.

Article 4

Compliance with the requirements of Article 2 shall be established by the methods of testing provided for in other Council Directives, which take due account of the unreliability of such methods and lay down the relevant tolerances.

Article 5

1. If a Member State should establish, by test procedures carried out on the basis of the Directives referred to in Article 4, that a detergent does not comply with the requirements laid down in Article 2, the Member State shall prohibit the placing on the market and use of that detergent in its territory.

2. In the event of that Member State taking the decision to prohibit a detergent, it shall immediately inform the Member State from which the product comes and the Commission to that effect, stating the reasons for its decision and details of the tests referred to in paragraph 1.

If the State from which the detergent comes raises objections to the decision, the Commission shall consult without delay both the Member States concerned and, if appropriate, any other Member States.

If it is not possible to reach agreement, the Commission shall, within three months from the date of receiving the information provided for in the first subparagraph obtain the opinion of one of the laboratories referred to in Article 6, but not one of the laboratories notified by the two Member States concerned under that Article.

The opinion shall be issued using the reference methods laid down in the directives referred to in Article 4.

The Commission shall transmit the opinion of the laboratory to the Member States concerned which may, within one month, forward their comments to the Commission. The Commission may at the same time hear any comments from the interested parties on that opinion.

After taking note of those comments, the Commission shall make any necessary recommendations.

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Article 6

Each Member State shall notify the other Member States and the Commission of the laboratory or laboratories authorized to carry out the tests in accordance with the reference methods referred to in Article 5 (2).

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Article 7

1. The following Information must appear in legible, visible and indelible characters on the packaging (SIC! packaging) in which the detergents are put up for sale to the consumer:

- (a) the name of the product,
- (b) the name or trade name and address or trademark of the party responsible for placing the product on the market.

The same information must appear on all documents accompanying detergents transported in bulk.

2. Member States may make the placing on the market of detergents in their territory subject to the use of their national languages for the information specified in paragraph 1.

Article 7a

1. A Committee shall be established for the adaptation to technical progress of Directives for removing technical barriers to trade in the detergents sector, hereinafter called “the Committee”, which shall consist of representatives of the Member States under the chairmanship of a representative of the Commission.

2. The Committee shall establish its rules of procedure.

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Article 7b

1. Where recourse is had to the procedure defined in this Article, the matter shall be referred to the Committee by its chairman, on his own initiative or at the request of the representative of a Member State.

2. The Commission representative shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a period which may be fixed by the chairman according to the urgency of the matter. A qualified majority of votes as laid down in Article 148 (2) of the Treaty shall be required before the Committee can deliver its opinion.

The chairman shall not vote.

3. (a) The Commission shall adopt the proposed measures where they are in accordance with the opinion of the Committee.
- (b) Where the proposed measures are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall submit to the Council without delay a proposal on the measures to be adopted. The Council shall decide by a qualified majority.
- (c) If the Council has not acted within three months of the date on which the proposal was submitted, the proposed measures shall be adopted by the Commission.

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Article 7c

1. In accordance with the procedure laid down in Article 7b,
 - the references to test methods in the Directives referred to in Article 4 shall, if necessary, be brought up to date or supplemented by other references to test methods established in other Member States,
 - the reference methods (confirmatory test) in the Annexes to the Directives referred to in Article 4 shall be modified in order to adapt them to technical progress.
2. These adaptations should not have the effect of modifying in a negative fashion the biodegradability requirements of surfactants, already laid down in accordance with Article 4.

Article 8

1. Member States shall put into force the laws, regulations and administrative provisions necessary for compliance with this Directive within eighteen months of its notification and shall forthwith inform the Commission thereof.
2. Member States shall ensure that the texts of the main provisions of national law in the field covered by this Directive are communicated to the Commission.

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Article 9

This Directive is addressed to the Member States.